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Not since the New Deal has the future of U.S. foreign economic policy seemed so uncertain. The sense of unease built up during the Clinton administration, which appearedto move awkwardly in multiple directions without an underlying sense of purpose. Buffeted by the crosswinds of a mandate to maintain American leadership and dominance in world markets, and the imperative to satisfy core (protectionist) constituents within the Democratic Party, the Clinton administration eventually retreated into trade policy "sclerosis." From the abortive 1999 World Trade Organization (WTO) meetings in Seattle, to the failure to secure fast-track authority and, hence, provide leadership in the Free Trade Agreement of the Americas (FTAA) negotiations, the administration appeared unable to decide upon a course of action in its foreign economic policy.

The puzzling ambivalence of U.S. trade policy in the 1990s raises a number of important issues that are explored in this special issue of NAFTA: *Law and Business Review of the Americas.* Specifically, three dominant questions emerge. First, do the 1990s constitute a "sea-change" in American foreign economic policy, or is the lack of U.S. leadership particular to the Clinton administration? Second, and closely related, what are the prospects for a hemispheric free trade deal in the near term? Third, does a FTAA matter regardless of the specific form it might take?

I. From One Change to Another: U.S. Trade Policy in the 20th Century.

Like electoral realignments (with which they typically coincide), trade policy shifts in the United States constitute sharp, durable changes in the nation's foreign economic policy.[1] These shifts are not universally embraced; indeed, no matter the time frame, trade tends to constitute a valence issue that divides the parties. However, it is possible to speak

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1. The classic study definition of realignment and the related concept of a "critical election" appear in WALTER DEAN BURNHAM, CRITICAL ELECTIONS AND THE MAINSPRINGS OF AMERICAN POLITICS (MIT Press, 1970).

of distinct eras of U.S. trade policy that are dominated by an orientation toward either protection or free trade.

The first three decades of the twentieth century have been characterized as the era of "Fair Trade." The era pitted protectionist Republicans against more moderate Democrats. Neither party seriously challenged the formidable barriers to imports, largely because no significant societal constituency existed in favor of free trade.[2]

The Republicans sought to satisfy industrial and financial interests through a commitment to high tariffs and tight money. This trend had been building since the Civil War, as the Republicans increasingly traded state-supplied rents for electoral considerations. Consolidated in the final election of the nineteenth century, this so-called "System of '96" informed the GOP's position on trade for the next fifty years. By contrast, the Democratic Party resisted such featherbedding for moneyed interests in favor of a more "fair" approach to international trade. "Fairness" meant seeking scientific means to equalize production cost differentials between foreign and domestic producers of similar commodities. While this translated into lower tariff rates during periods of Democratic control of Congress, the scientific tariff obviated the logic of comparative advantage, and as such, the Democrats can be said to have differed from the Republicans merely in degree, not in kind.[3]

The era of Fair Trade broke down in the 1920s and 1930s. Beginning in the 1920s, a new, internationalist bloc emerged within the producer population. Unlike the old-style, labor-intensive industries that dominated the "System of '96" coalition, these capital-intensive firms sought to expand markets abroad. Ultimately, the internationalist bloc aligned with the Democratic Party and succeeded in re-orienting American foreign economic policy.[4] The result in the aftermath of the 1934 Reciprocal Trade Agreements Act (RTAA) was the start of U.S. dominance in international economics and the groundwork for post-war regimes in international trade (General Agreement on Tariffs and Trade, GATT) and monetary policy (International Monetary Fund, IMF).[5]

As might have been expected, the trade policy shift of the 1930s generated political opposition on the part of rent-seeking industrialists, who opposed the introduction of the RTAA, as well as its triennial renewals. Over time, however, this opposition dissipated.

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2. The most obvious candidates for this role would have been the farmers, the free trading sector in the nineteenth century. However, the early years of the twentieth century saw farmers bought off with higher tariffs of their own, a process that culminated in the disastrous Smoot-Hawley Tariff of 1930.
3. The above explanation constitutes a simplification. The progressive wing of the GOP, for example, also embraced the scientific tariff. For a more comprehensive treatment of this period, see C. A. STERN, PROTECTIONIST REPUBLICANISM: REPUBLICAN TARIFF POLICY IN THE MCKINLEY PERIOD (1971); WILLIAM H. BECKER, THE DYNAMICS OF BUSINESS-GOVERNMENT RELATIONS: INDUSTRY AND EXPORTS 1893-1921 (1982); F.W. TAUSSIG, THE TARIFF HISTORY OF THE UNITED STATES (1923).
4. *See* Thomas Ferguson, *From Normalcy to New Deal: Industrial Structure, Party Competition and American Public Policy in the Great Depression*, 38 INT'L ORG. 41 (1984); Jeff Frieden, *Sectoral Conflict and Foreign Economic Policy, 1914-1940*, 42 INT'L ORG. 59 (1988).
5. *See* Stephan Haggard, *The Institutional Foundations of Hegemony: Explaining the Reciprocal Trade Agreements Act of 1934*, 42 INT'L ORG. 91 (1988).

The RTAA operated according to the principle of unconditionality, whereby a concession to one most-favored nation is a concession to all. With each successive reciprocal trade agreement, the U.S. tariff rate was ratcheted downward. Rent-seeking interests that were able to adapt to the newly competitive environment were forced to do so; those that could not adapt were rationalized from the marketplace. Either way, the protectionist core within the industrial sector grew smaller with each iterative tariff reduction.[6] As a result, by the post-war era, while it was not possible to speak of a universal commitment to free trade on the part of the industrial producer population, it is safe to say that a strong consensus in favor of trade liberalization existed.[7] Similarly, although the Republicans had replaced the Democrats as the party of free trade by the end of the 1960s (largely as a function of organized labor's antipathy towards freer trade), neither party could be deemed actively hostile to trade liberalization. Thus, for most of the post-war years, America's commitment to a liberal foreign economic policy was rarely in question.

One exception was the threat of the New Protectionism in the 1970s and 1980s, which caused some to predict the end of U.S. hegemony—even leadership of the international trading system.[8] However, throughout this period, the United States continued to increase its share of exports, to play a leadership role in the GATT, and to forge an important regional trade deal with Canada and Mexico. Indeed, as Eric Uslaner points out in this volume, the era of free trade is notable for the symbiotic relationship between parties' support for freer trade and their success in controlling the White House.

The late 1980s and early 1990s appeared to put to rest any fears of declining American hegemony or of creeping protectionism. The Uruguay Round of the GATT began the arduous process of liberalizing global trade in agriculture and services; indeed, in creating the new World Trade Organization, the Uruguay Round seemed to open a chapter in multilateralism. Similarly, the Canada-U.S. Free Trade Agreement of 1989 was the precursor to NAFTA. That agreement, in turn, generated momentum toward what the Bush administration called the Enterprise for the Americas Initiative, and ultimately, the proposed Free Trade Agreement of the Americas (1994).

Since that time, however, the momentum toward trade liberalization has faltered. As noted, the Clinton administration failed to receive fast-track negotiating authority in 1997. Other setbacks occurred in the failure to make progress on the Multilateral Agreement on Investments in 1998, and perhaps more infamously, the WTO the following year. Indeed, there is some danger that the close of the twentieth century may also spell the end of the era of free trade in the United States.

II. Post-Material Protectionism?

It is probably too early to issue dire warnings about the demise of American leadership in the global free market. On the other hand, there are straws in the wind that cannot be

6. *See* Michael Lusztig, *The Limits of Rent-Seeking: Why Protectionists Become Free Traders*, 5 REV. INT'L POL. ECON. 38 (1998).
7. The essay by Wendy Schiller in this volume speaks to the persistence of a small protectionist core of industrial rent-seekers.
8. *See, e.g.*, David A. Lake, *Beneath the Commerce of Nations*, 28 INT'L STUD. Q. 143 (1984).

ignored. What accounts for these potential harbingers of a new era in U.S. trade policy? While pleas from industrial producers for increased protection still can be heard, the potential threat to the era of free trade cannot be said to emanate from this corner; as noted, there persists a fairly determined consensus among industrial producers in favor of trade liberalization. Nor is it reasonable to suggest that organized labor finally has managed to assert sufficient influence in the trade policy arena to orchestrate a policy shift. Labor certainly is a force for protectionism, but has been so for a long time. Logic mandates that, at a time of decreasing trade union membership (and relevance), organized labor alone could not be such a potent force for change, even during a period of Democratic control of the White House.[9]

Clues for a more promising avenue of investigation may lie in Fritz Mayer's contribution to this volume. Mayer suggests that trade policy—and the phenomenon known as globalization in general—has attracted a host of new players in recent years. Beginning with the passage of NAFTA, which linked parallel accords on labor and environmental standards to an economic treaty, social activists have become increasingly involved in the attempt to influence U.S. foreign economic policy. As Mayer points out, joining labor and environmental groups in opposition to globalization are human rights activists, religious organizations, and other protest groups. On the one hand, the crudeness of the WTO protesters in Seattle and subsequent demonstrations against the IMF in Washington could indicate that these folks had but a tenuous grasp of how the objects of their ostensible hatred actually operate in the world economy. On the other hand, the "leaders" of these new anti-global social movements are well organized, informed, and coordinated. Equally important is the fact that they are increasingly influential within the Democratic Party in Congress. Moreover, the new anti-global constituency is not confined to the Democrats. As Uslaner points out, the self-styled moral (i.e., largely religious) wing of the Republican Party also recently has taken a neo-isolationist stance to increased U.S. involvement in the world economy.

Internal party politics, then, emerges as a likely culprit in the possible reorientation of U.S. trade policy. This begs the questions, of course, of (a) what has fueled the discord and (b) why is it occurring now? Internal party conflict over major policy initiatives, of course, is hardly unique to the late twentieth century. Big tent parties axiomatically accommodate diverse interests. Indeed, the Democrats have long had to balance conflicting internal pressures along what might be termed the material dimension. That is, they have had to reconcile demands from core constituencies (such as organized labor and the poor) for greater distribution of wealth and hence more extensive state intervention in the economy, while maintaining the prerequisite of wealth creation through the (relatively unfettered) operation of the free market. Indeed, as a colleague put it, the mandate of the pre-Johnson Democrats was to "take care of the poor and eradicate the communists."

Since the late 1960s, however, the advanced industrialized democracies have experienced what Inglehart labeled "the rise of Postmaterialism."[10] This phenomenon has wit-

9. Indeed, as Uslaner points out in this volume, since the New Deal, protectionists have found the White House to be at best a weak ally, regardless of which party controls the presidency.

10. Ronald Inglehart, *The Silent Revolution in Europe: Intergenerational Change in Post-Industrial Societies*, 65 AM. POL. SCI. REV. 991 (1971); RONALD INGLEHART, CULTURE SHIFT IN ADVANCED INDUSTRIAL SOCIETY 168 (1990).

nessed a gradual decline in the salience of the traditional material cleavage, as new electoral cohorts have come of age. Socialized in the post-war era of the welfare state, whereby their basic material needs, and hence subjective sense of well-being, were ensured, many baby boomers and members of subsequent generations have been liberated to pursue higher-order, post-material objectives.[11]

In the United States, the rise of post-material values had the greatest initial impact on the Democratic Party. The Civil Rights, women's, and anti-war movements served to polarize the Democratic Party and mobilize new social movements. The effects have been long lasting. Democratic Party presidential candidates have had a hard time striking an appropriate balance between advocates of material and post-material objectives. Indeed, it was his ability to reconcile both wings of the party that accounted in part for the electoral success of former President Clinton—a "New" (pro-market) Democrat who felt the (post-material) "pain" of those at society's margins. More pertinently to the issue at hand, it was the requisite to balance material and post-material interests within the Democratic Party that saw the Clinton administration append a parallel accord on environmental standards to NAFTA; in turn, this seems to have let the post-material genie out of the trade policy bottle.[12]

While the rise of post-materialism appears to have been problematic for the Democratic Party, the GOP has not been immune from its effects. Most proponents of post-material values, of course, have not migrated to the Republican Party, but the GOP has had to respond to what might be thought of as the post-material backlash. This has manifested itself in the rise of the so-called religious right (although there is a significant secular component) that espouses a return to traditional values and the reconstruction of America's moral bulwark.[13] In practical terms, the post-material backlash has been divisive, pitting economic liberals against social conservatives. As within the Democratic Party, few Republican presidential candidates have been able to strike an effective balance between the two wings of the party. Indeed, the elusive "Reagan legacy" that many claim to represent, translates into the ability to maintain a free economy and a strong (morally virtuous) state. The problem, moreover, extends to the trade policy arena. As Uslaner argues in this volume, social conservatives see globalization as a means of allowing foreigners to dictate cultural and possibly even religious mores to the United States. As they

11. Post-material goals may be conceptualized most simply as political objectives that money cannot buy. They include peace, justice, a clean environment, and respect for diversity. The theory may be thought of as a societal aggregation of Maslow's hierarchy of needs. *See* ABRAHAM K. MASLOW, MOTIVATION AND PERSONALITY (1954).

12. The effects of post-materialism in the contemporary U.S. trade arena are somewhat ambiguous. For example, Inglehart, Nevitte, and Basanez found that with respect to NAFTA, post-materialists in Canada and Mexico were more likely to oppose closer economic ties with the United States. However, post-materialists in Canada and the United States tended to *support* closer economic relations with Mexico. RONALD INGLEHART ET AL., THE NORTH AMERICAN TRAJECTORY: CULTURAL, ECONOMIC, AND POLITICAL TIES AMONG THE UNITED STATES, CANADA AND MEXICO (1996). On the other hand, the recent Seattle and Washington demonstrations against perceived cultural imperialism by the United States and world economic regimes suggest a hardening of anti-globalization values among post-materialists.

13. *See, e.g.*, ROBERT BORK, SLOUCHING TOWARDS GOMORRAH: MODERN LIBERALISM AND AMERICAN DECLINE (1996); JAMES Q. WILSON, THE MORAL SENSE (1993).

did during the economic crisis of the Great Depression, conservatives appear to have retreated into isolationism in response to the perceived moral crisis of the late twentieth and early twenty-first centuries.

The history of U.S. trade suggests that shifts in policy tend to mirror electoral realignments. In turn, realignments in the past century have tended to occur in tandem with major changes in the productive process. Thus, the realignment of 1896 reflects the values of the shift from an agrarian to an industrial economy. Similarly, the 1936 realignment is indicative of the increased power of organized labor. The emergence of a post-material cleavage in American politics has coincided with what Fukuyama calls the "Great Disruption" associated with the shift from an industrial to an information-based economy.[14] As of yet, there are no signs that an electoral realignment is underway; nor are we ready to suggest that U.S. trade policy is on the verge of radical change. However, the events of the late 1990s bear watching given the events of the past thirty years.

III. This Volume.

The essays in this volume collectively address the questions posed at the beginning of the introduction. The first two, by Sidney Weintraub and Sherry Stephenson, set the stage for our understanding of the state of hemispheric free trade. Weintraub's paper illustrates important differences between the proposed FTAA and the existing NAFTA. While there is a tendency to view the latter as an extension of the former, Weintraub cautions that NAFTA is a far deeper and more meaningful agreement than the FTAA would be. He questions whether a FTAA could provide the economic stimulus to Latin America and the Caribbean (LAC) as NAFTA has done and will do for Mexico. In sum, while he does not suggest that the FTAA will be unimportant, he does warn analysts against attaching too much significance to the FTAA process.

Stephenson provides an insider's view of the state of the FTAA negotiations. She predicts that the agreement will be successfully negotiated. Stephenson's essay constitutes a nice set up for the rest of the volume in that it provides the reader with the background necessary to understand the more issue-specific papers.

Fritz Mayer, Eric Uslaner, and Wendy Schiller provide important insights into the state of contemporary U.S. trade politics. Schiller concentrates on divisions within the industrial sector. She examines the effects of geographic location on industries' abilities to lobby; she also notes the differential effects of lobbying the House and Senate. Industries strong in both chambers will not seek coalition partners. Conversely, industries strong in one chamber, but weak in the other, will seek to complement their weaknesses through coalition building. Industries that have strong state concentrations will be stronger in the Senate. Industries that are more widely distributed will be stronger in the House.

Mayer and Uslaner argue that internal divisions within the two mainstream parties have the potential to color the future of U.S. trade. Whereas Mayer believes that U.S. trade is "dead in the water," Uslaner's essay is more optimistic, suggesting that the economic benefits of free trade and electoral success in winning the presidency are mutually reinforcing.

14. FRANCIS FUKUYAMA, THE GREAT DISRUPTION: HUMAN NATURE AND THE TRANSFORMATION OF SOCIAL ORDER (1999).

The upshot is that the president typically will have an incentive to maintain an internationalist foreign economic policy.

Guy Poitras, Patrick James, and Michael Lusztig seek to predict what a FTAA might look like. Poitras explores the issue of U.S. dominance in the hemisphere, which boils down to a conflict between the Pan American view of hemispheric trade versus the Bolivarian view that Latin America must protect itself against undue American influence. The Free Trade Summit in Miami represented a victory—however temporary—of the Pan American perspective. The United States and Brazil represent poles in the negotiations. While neither is terribly enthused about the FTAA, the U.S. subscribes to the "early harvest" view that any negotiations that all can agree to should be ratified. Brazil, on the other hand, adheres to the idea that nothing is agreed to until all is agreed to. To make matters worse, the United States does not have fast track, and Brazil is far more concerned with the Southern Cone Common Market (MERCOSUR) than with the FTAA.

James and Lusztig seek to predict the outcomes of two important, interrelated events. First, will the next U.S. president be granted fast-track authority (and under what terms)? Second, what form will a FTAA take? Using a methodology known as expected utility forecasting, they find that the president indeed can be expected to receive fast-track authority, although (as suggested in the Mayer paper) there will be riders concerning labor and environmental standards. With respect to FTAA format, the findings partially support the Poitras chapter, suggesting that a northern and southern bloc will emerge during the FTAA negotiations. Ultimately, however, they agree with Stephenson that a FTAA will have to be negotiated *de novo*.

The last two essays, by Joseph Norton and William Gruben, look at nuts and bolts issues associated with a FTAA. Gruben looks at the relationship between monetary policy and trade in the proposed FTAA. He finds that incongruent monetary policies lead to increased pressure on trade liberalization—functionally that devaluation leads to rent-seeking abroad. One way around this would be to harmonize monetary policies—either through currency unions or dollarization. This would facilitate free trade.

Finally, Norton looks at the impact of the FTAA from the perspective of U.S., Canadian, and Mexican investors. Like Weintraub, he finds that the FTAA is unlikely to have the impact that previous agreements and unilateral policy shifts in Latin America have had. As a result, the FTAA may not be as important as many analysts have suggested.